



COLORADO

Division of Reclamation,
Mining and Safety

Department of Natural Resources

1313 Sherman Street, Room 215
Denver, CO 80203

DATE: July 12, 2016

TO: Colorado Goldfields, Inc.
7986 South Daltura Circle West
Littleton, Colorado 80120

RE: Findings of Fact, Conclusions of Law and Order
Pride of the West Mill
File No's. M-1984-049, MV-2016-038

On July 11, 2016, the Mined Land Reclamation Board signed the enclosed Board Order for the above captioned operation. We strongly advise that you read this document carefully since it may contain provisions which must be satisfied by specific dates to avoid future Board actions.

Failure to submit payment for the unsuspended portion of the civil penalty, by the date specified in the attached Board Order, will result in immediate submittal of those penalties to the State Central Collection Services for further processing and the addition of collection fees.

Sincerely,

Johnie Abad
Board Secretary

Enclosure(s)

Certified Mail

7014 2120 0001 7869 5168

Cc's
Lucas West
Russ Means
John Roberts



BEFORE THE MINED LAND RECLAMATION BOARD
STATE OF COLORADO

Notice of Violation No. MV-2016-038

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

IN THE MATTER OF A POSSIBLE VIOLATION BY COLORADO GOLDFIELDS, INC., CORRECTIVE ACTIONS, CEASE AND DESIST ORDER, AND CIVIL PENALTIES FOR FAILURE TO NOTIFY OF LOSS OF CONTAINMENT, FAILURE TO COMPLY WITH A CONDITION OF ITS PERMIT, AND FAILURE TO PROTECT THE HYDROLOGICAL BALANCE, File No. M-1984-049

THIS MATTER came before the Mined Land Reclamation Board ("Board") on June 22, 2016, in Denver, Colorado for an enforcement hearing to consider a possible violation by Colorado Goldfields, Inc. ("Operator"), cease and desist order, corrective action, and a civil penalty for failure to notify of a loss of containment, failure to comply with a condition of its permit, and failure to protect the hydrological balance, file number M-1984-049. First Assistant Attorney General Jeff Fugate, Lucas West, and Russ Means appeared on behalf of the Division of Reclamation Mining and Safety ("Division"). Steven Fearn appeared on behalf of the Operator. The Division and the Operator presented a joint stipulation to resolve the allegations in this matter.

The Board, having considered the Joint Stipulation of the Division of Reclamation Mining and Safety and Colorado Goldfields Inc. ("Agreement") and the parties' presentations, and being otherwise fully informed of the facts in the matter, hereby states that it agrees with and approves the terms of the Agreement, and orders the following:

FINDINGS OF FACT

1. The Operator holds a 112d-2 permit for a gold and silver mill located in Section 1, Township 41 North, Range 7 West, 10th Principal Meridian, in San Juan County, Colorado. The site is known as the Pride of the West Mill. The site is a designated mining operation.
2. The mill has not been operated since 2004 and is currently under a Cease and Desist Order (violation number MV-2005-047) issued by the Board on July 13, 2005 for a loss of containment.
3. On June 27, 2011, the Division approved TR-11 regarding the breaching and final reclamation of tailings pond Cell 1A. Approved reclamation measures would prevent containment of storm waters in the cell.

4. On August 27, 2015, the Division conducted an inspection of the site. Steve Fearn, John Furgeson, and Ray Furgeson, representing the Operator, attended the inspection. During the inspection, the Division observed that the water level in tailings pond Cell 1A would need to be lowered through the approved sprinkler method to handle snowmelt runoff and prevent a loss of containment. The Division also observed that the water level was encroaching on a section of the liner that had been compromised, with several holes showing in the liner. The Division requested that the Operator closely monitor the water level in Cell 1A to ensure that it did not rise above the level of the holes and cause a loss of containment. The inspection report was mailed to the Operator.

5. On March 30, 2016, the Division conducted a partial follow-up inspection of the site to monitor the water level of Cell 1A. The Operator did not attend the inspection. Due to snow cover, the Division could not determine the water level in Cell 1A. The Division requested that the Operator make on-site visits to monitor the water level in Cell 1A and provide photo documentation from those visits. The inspection report was mailed to the Operator.

6. On May 4, 2016, the Division conducted an additional partial inspection of the site to monitor the water level of Cell 1A. Steve Fearn, representing the Operator, attended the inspection. During the inspection of Cell 1A, the Division observed that the water line was right at the edge of the holes in the liner and observed that there was a loss of containment as water was running into at least three holes in the liner at a collective rate of one to three gallons per minute. The Division further observed that the Operator had not completed any of the approved reclamation work in TR-11 regarding Cell 1A.

7. On May 5, 2016, due to concerns regarding a possible impact to the hydrological balance from the loss of containment, the Division requested that the Operator perform water quality sampling of Cell 1A with a compliance date of June 6, 2016.

8. On May 19, 2016, the Division sent the Operator the May 4, 2016, inspection report and a Reason to Believe a Violation Exists letter. The Division's letter provided notice regarding the alleged violations and information about the June 22, 2016, hearing.

9. On June 14, 2016, the Division received the water quality results for Cell 1A. The results showed that an estimated 40,000 gallons of poor quality compromised storm water was released into the unconfined alluvium and impacted surface and groundwater quality that potentially report to the Animas River.

CONCLUSIONS OF LAW

10. The Board has jurisdiction over this matter pursuant to the Colorado Mined Land Reclamation Act, Article 32 of Title 34, C.R.S. (2015).

11. The Pride of the West Mill is a "Designated Mining Operation" as that term is defined by Rule 1.1(14) of the Mineral Rules and Regulations of the Colorado Mined Land Reclamation Board for Hard Rock, Metal, and Designated Mining Operations ("Rules"), for which a 112d-2 permit has been issued.

12. The Operator is engaged in a "mining operation" as that term is defined in section 34-32-103(8), C.R.S.

13. Cell 1A at the Pride of the West Mill is a decertified "Environmental Protection Facility" pursuant to Rule 1.1(15).

14. Section 34-32-121.5, C.R.S., provides that "[a]ny person engaged in a mining operation shall notify the office of any failure or imminent failure as soon as reasonably practicable after such person has knowledge of such condition,... of: Any impoundment, embankment or slope that poses a reasonable potential danger to any persons or property or the environment."

15. Pursuant to Rule 8.1, the Operator was required to notify the Division "as soon as reasonably practicable, but no later than twenty-four (24) hours after the Operator has knowledge of a failure or imminent failure of... any impoundment, embankment, stockpile or slope that poses a reasonable potential for danger to human health, property or the environment."

16. When there was a loss of containment and Cell 1A began leaking contaminated water through the liner, it constituted a failure of an impoundment pursuant to Rule 1.1(20).

17. By failing to notify the Division of the Failure of the impoundment, specifically, Cell 1A, the Operator was in violation of section 34-32-121.5, C.R.S., and Rule 8.1(a).

18. The Operator failed to comply with a condition of its permit, as modified by TR-11, regarding the breaching and final reclamation of Cell 1A, which is a violation pursuant to section 34-32-124(1), C.R.S.

19. By causing a disturbance to the prevailing hydrologic balance of the affected land and to the quality and quantity of water in surface and groundwater systems, the Operator was in violation of section 34-32-116(7)(g), C.R.S.

20. The Board may impose a civil penalty of not less than \$100 per day or more than \$1,000 per day for each day during which a violation of a mining operation permit occurs. C.R.S. § 34-32-124.5(7) (2015). Here, the Board may impose a penalty based on forty-nine days of violation from the May 4, 2016, inspection that discovered the loss of containment, to the June 22, 2016, Board meeting, at \$100 to \$1,000 per day for a civil penalty of \$4,900 to \$49,000.

ORDER

Based on the foregoing findings of fact and conclusions of law, the Board finds the Operator in violation of sections 34-32-116(7)(g), 121.5, and 124, C.R.S., and Board Rule 8.1, for failure to protect the hydrological balance, for failure to notify the Division of loss of containment, and for failure to comply with a condition of its permit.

The Operator shall CEASE AND DESIST any further activities at the Pride of the West Mill, except those activities approved in writing by the Division to comply with the corrective action in this Board Order. Further, the Operator remains subject to the previous cease and desist order entered by the Board on July 13, 2005, and shall not conduct any mining, milling, or reclamation related operations or activities at the site other than those activities approved by the Division or Board in writing necessary to bring the permit into compliance and to prevent damage to offsite areas and to protect human health and safety.


The Board imposes against the Operator the following CORRECTIVE ACTIONS:

- a. The Operator shall complete the dewatering of Cell 1A, decommission the liner, and complete final reclamation of Cell 1A as approved in TR-11 by no later than October 1, 2016;
- b. The Operator shall conduct an analysis and produce a report of the sludge and sediments for heavy metals and any other constituents of concern as identified by the Division prior to final reclamation by no later than October 1, 2016; and
- c. Based on submitted analytical results by the Operator showing poor quality water in Cell 1A, the Operator shall submit a plan to the Division for approval and initiation of an investigation into the sources of water both in quantity and quality that report to the impoundment by no later than October 1, 2016.

The Board imposes a CIVIL PENALTY for forty-nine days of violation at \$1,000 per day for a total civil penalty of \$49,000. All but \$5,000 of the penalty is suspended if the Operator complies with the corrective action within the time specified. The portion of the civil penalty not suspended, \$5,000, shall be due and payable within thirty days of the effective date of this Order. If the Operator fails to timely complete the corrective action stated in this Order, the suspended civil penalty, \$44,000, will become due and payable within thirty days of the deadline to complete the corrective action. Failure to submit any portion of the civil penalty by the dates specified herein shall result in immediate submittal of any unpaid civil penalties to State collections.

DONE AND ORDERED this 10th day of July 2016.

FOR THE COLORADO MINED LAND
RECLAMATION BOARD


Forrest Luke, Chair

NOTICE OF JUDICIAL REVIEW RIGHTS

This order becomes effective and final upon mailing. Any party adversely affected or aggrieved by agency action may commence an action for judicial review by filing a complaint with the district court within thirty-five (35) days after the effective date of this order, pursuant to section 24-4-106, C.R.S. (2015) and the Colorado Rules of Civil Procedure. In the event that a complaint for judicial review is filed, designations of record made in accordance with section 24-4-106(6), C.R.S. should be served on the Board at: 1313 Sherman Street, Room 215, Denver, CO 80203, Attention: Johnnie Abad.

Colorado Goldfields, Inc.
Pride of the West Mill/M-1984-049
MV-2016-038

CERTIFICATE OF SERVICE

This is to certify that I have duly served the within FINDINGS OF FACT,
CONCLUSIONS OF LAW, AND ORDER upon all parties herein by depositing copies
of same in the United States mail, first-class postage prepaid, at Denver, Colorado,
this 12th day of July 2016, addressed as follows:

By Certified Mail:
7014 2120 0001 7869 5168

Colorado Goldfields, Inc.
Attn: C. Steven Guyer
7986 South Daltura Circle West
Littleton, CO 80120

By Electronic Mail To:

Lucas West
Division of Reclamation, Mining & Safety
101 South 3rd Street, Suite 301
Grand Junction, Colorado 81501

Russ Means
Division of Reclamation, Mining & Safety
101 South 3rd Street, Suite 301
Grand Junction, Colorado 81501

By Electronic Mail To:

John J. Roberts
First Assistant Attorney General
Colorado Department of Law
Business and Licensing Section
1300 Broadway, 8th Floor
Denver, Colorado 80203


Johnie Abad, Board Secretary

Colorado Goldfields, Inc.
Pride of the West Mill/M-1984-049
MV-2016-038